

Excerpts
Planning Commission Minutes
August 10, 2005

Application No. UP-676-05, Mid-Atlantic Tower Development, LLC: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance, to authorize a 198-foot self-supporting communications tower with associated ground-mounted equipment within a leased area located on a portion of the property of Seaford Baptist Church, located at 1311 Seaford Road and further identified as Assessor's Parcel No. 25-311. The property is located on the north side of Seaford Road (Route 622), approximately one mile east of its intersection with Goodwin Neck Road (Route 173). The property is zoned RR (Rural Residential) and is designated Low Density Residential in the Comprehensive Plan.

Mr. Earl Anderson, Planner, summarized the staff report to the Commission dated August 1, 2005. He explained that a Special Use Permit had been approved in 2002 for the site in question, but the applicant for that application took no further action to implement the use within the two years allowed by the Zoning Ordinance. Therefore, the use permit expired. The current applicant is a different entity and the tower access is in a different portion of the parcel, with no access from Walkin Lane. The terms of the proposed use are identical to those approved in 2002, according to **Mr. Anderson**, who noted the staff recommendation of approval.

Mr. Davis inquired about proximity of the proposed tower to the designated Resource Protection Area (RPA). **Mr. Anderson** responded that the proposed leased area is near the RPA and the tower would be on a portion of the leased area farthest from the RPA.

Mr. Abel asked if the Seaford Baptist Church had a steeple. **Mr. Anderson** replied it does not. **Mr. Abel** wondered about the appropriateness of stealth towers, then asked if staff had recommended a tower of lesser height, assuming it would meet the applicant's needs. **Mr. Anderson** said that other towers and lower towers are always considered first, before a new tower is proposed. However, when new towers are built, height is important to be able to accommodate more users.

Chair Ptasznik opened the public hearing.

Susanna Hickman, Esquire, Geddy, Harris, Franck & Hickman, LLP, 1177 Jamestown Road, represented the applicant. **Ms. Hickman** pointed out the current application would situate the tower totally on church property. The only difference in this application from the one approved in 2002 is the access. She introduced Mr. Van Thompson of Mid-Atlantic Tower Development, LLC, and recognized others who were available to answer questions including a representative of Verizon, the project engineer, and a trustee from Seaford Baptist Church.

Mr. Van Thompson, Mid-Atlantic Tower Development, LLC, referred to photographs depicting Seaford Baptist Church, since its renovation, as being larger, taller, and closer to the front of the property than in the former application. **Mr. Thompson** addressed the possibility of co-locating onto an existing tower, but said each 10 feet the tower was lowered would effectively eliminate a potential carrier while diminishing the applicant's ability to adequately expand its service area.

There are two prospective co-locators interested in going on the system right away and one more in the future, he said.

Mr. Abel inquired about the possible use of a monopole or tree-appearing tower or placing the tower into an existing structure such as a church steeple – which he acknowledged was not an option in this case. **Mr. Thompson** said Mid-Atlantic Tower Development is building a tall “tree monopole” tower in Fairfax County but, in his opinion, that type of tower, tall enough to serve the focus area in the County, would be very obvious within its surroundings.

There were no others who wished to speak, and the Chair closed the public hearing.

Mr. Staton remarked that no reliable communications tower exists in the subject area. **Mr. Ptasznik** agreed.

Mr. Staton moved to adopt proposed Resolution PC05-33.

Resolution No. PC05-33

On motion of Mr. Staton, which carried 5:0 (Barba and Hamilton absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE A 198-FOOT SELF-SUPPORTING COMMUNICATIONS TOWER WITH ASSOCIATED GROUND-MOUNTED EQUIPMENT WITHIN A LEASED AREA LOCATED ON A PORTION OF THE PROPERTY OF SEAFORD BAPTIST CHURCH, LOCATED AT 1311 SEAFORD ROAD

WHEREAS, Mid-Atlantic Tower Development, LLC has submitted Application No. UP-676-05, which requests a special use permit pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance, to authorize construction of a 198-foot freestanding communications tower with associated equipment on a portion of the parcel located at 1311 Seaford Road (Route 622) and further identified as Assessor’s Parcel No. 25-311 (GPIN T08A-2488-3337); and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 10th day of August, 2005 that Application No. UP-676-05 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize construction of

a 198-foot freestanding communications tower with associated equipment on a portion of the parcel located at 1311 Seaford Road (Route 622) and further identified as Assessor's Parcel No. 25-311 (GPIN T08A-2488-3337), subject to the following conditions:

1. This use permit shall authorize the construction of a freestanding communications tower with associated equipment on a portion of the 16.07-acre parcel of land located at 1311 Seaford Road (Route 622) and further identified as Assessor's Parcel No. 25-311 (GPIN T08A-2488-3337).
2. The height of the tower shall not exceed 198 feet.
3. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to commencement of land clearing or any construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the sketch plan submitted by the applicant titled "Mid-Atlantic Tower Development, LLC; Telecommunications Facility; Seaford; 1311 Seaford Road, Seaford, Virginia;" Sheets 1 – 3; dated 05/31/05, prepared by Johnson, Merriman & Thompson Engineering, received by the Planning Division June 30, 2005. As part of the site plan submittal, the applicant shall prepare a frequency intermodulation study to determine the impact on current communication transmissions for the York County Departments of Fire and Life Safety and General Services, Sheriff's Office, School Division, and the Intrac Sewer Telemetry System. Should any equipment associated with this facility at any time during the operation of the tower be found by the County to cause interference with County communications, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the County.
4. Construction and operation of the tower shall be in conformance with the performance standards set forth in Sections 24.1-493 and 24.1-494 of the Zoning Ordinance.
5. The applicant shall submit to the County a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
6. A report from a registered structural or civil engineer shall be submitted indicating tower height and design, structure installation, and total anticipated capacity of the structure (including number and types of users that the structure can accommodate). These data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirement of EIA-222E, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

7. Alternative access to the site via Walkin Lane may be permitted provided that prior to site plan approval and satisfactory to the Zoning Administrator and County Attorney, documentation is submitted to the County verifying lawful authority of the property owner and the applicant as their lessee to use the Walkin Road right-of-way for purposes of ingress, egress, and installation and maintenance of utilities associated with the proposed telecommunications facility.
8. Advertising and signage on the tower shall be expressly prohibited, except for warning signs associated with the operation of the tower or its equipment.
9. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration, Federal Communications Commission, and any other review authority with jurisdiction over the tower, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.
10. Evergreen planting material shall be installed for screening as deemed necessary by the Zoning Administrator pursuant to Section 24.1-240 et. Seq.
11. If at any time use of the communications tower ceases, the owner of the subject property on which the tower is located shall dismantle and remove it within six (6) months after ceasing to use it, unless:
 - (1) A binding lease agreement or letter of intent with another wireless communications provider has been executed in which case an additional six (6) months shall be granted. If a letter of intent is provided, the execution date for a binding lease agreement shall not extend more than (12) months beyond the time the use of the tower ceases, or
 - (2) The County requests, in writing, that the tower be reserved for County use.
12. Accessory facilities shall not include offices, vehicle storage, or outdoor storage unless permitted by the district regulations.
13. Evidence shall be provided prior to receipt of a building permit that the Virginia State Corporation Commission has been notified that a communication facility is to be constructed.
14. The equipment building and associated equipment shall be completely enclosed by a security fence to the satisfaction of the County. To facilitate screening of the facility, green netting of a type and materials acceptable to the Zoning Administrator shall be installed on the fence surrounding the facility.
15. The communication tower shall be gray in color. Should Federal Aviation Administration requirements dictate special markings, tower lighting shall be used in lieu of multi-color painting. If painting is required, a tower maintenance plan shall be submitted to and approved by the County.

16. No microwave dishes, conical shaped antennae, or other dish shall be permitted on the tower.
17. The communications tower shall be structurally designed to accommodate no fewer than three (3) wireless users capable of supporting either PCS or cellular antenna arrays. If space is available, the County shall have the right of first refusal for leasing a space on the tower to place an antenna in support of operations consistent with the County's Department of Fire and Life Safety.

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